

Childs, John

PORSF
11.3.31.5.1

From: Childs, John
Sent: Tuesday, September 04, 2001 11:11 AM
To: Ashton, David; Sperry, Dorothy
Subject: RE: Druback draft letter (t6\RehandleFacility\internalconfor)

I will set up a meeting

-----Original Message-----

From: Ashton, David
Sent: Tuesday, September 04, 2001 8:10 AM
To: Hermans, Marcel
Cc: Sperry, Dorothy; Childs, John
Subject: RE: Druback draft letter (t6\RehandleFacility\internalconfor)

Marcel, we have an emergent EMS fill policy which will hopefully have a decision node for a legal decision on the implications of moving fill from one location to another. This Druback letter is as much as we can get from DEQ, I believe, at this time. Before the material is relocated from Berth 301 (?) at Terminal 6, we should again consider if there is any tail legal issue. Right now, I think not.

John/Dorothy: let's have a small group meeting real soon to map out the path for a long-term strategy on DEQ regulation of dredged material.

David

-----Original Message-----

From: Hermans, Marcel
Sent: Friday, August 31, 2001 11:13 AM
To: Ashton, David
Subject: RE: Druback draft letter (t6\RehandleFacility\internalconfor)

Looks very positive to me as well.

The only minor item that raised a question for me is the last sentence: Is there still any relevance in the location we want to place the "clean soil"? The way it's phrased here would suggest to me that the location of placement is a determining factor in the solid-waste-determination. Is that really the case?
(e.g. If we would change our mind next week and want to place the soil on T5 instead, would we need to get back to DEQ and ask for permission again for that different location?)

Thanks,

Marcel

-----Original Message-----

From: Ashton, David
Sent: Friday, August 31, 2001 10:58 AM
To: Childs, John; Koshuta, Cheryl; Sperry, Dorothy; Ring, Jeffery (Jeff); Hermans, Marcel; Quinn, Padraic (Pad); Degens, Sebastian
Cc: Morgan, Pamela
Subject: Druback draft letter (t6\RehandleFacility\internalconfor)

looks like a winner to me - comments please asap << File: POP-SR2draft_.doc >>

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Based upon the Port's clarification of the scope of its original request and the additional information submitted, the Department substitutes this letter for its prior response of July 2, 2001.

The Port requested a determination of whether the activity of moving de-watered dredged material across Terminal 6 from the Dredge Material Rehandle Facility location to Berth 602 would trigger permitting under OAR 340-093-0050(1). That provision specifies that "no person shall establish, operate, maintain or substantially alter, expand, improve or close a disposal site, and no person shall change the method or type of disposal at a disposal site, until the person owning or controlling the disposal site obtains a permit therefor from the Department." OAR 340-093-0050(1) ("Permit Required"). The Port sought a determination that the de-watered material fell within the definitional exclusion from "disposal site" for "a site that is used by the owner or person in control of the premises to dispose of soil, rock, concrete or other similar non-decomposable material." OAR 340-093-0030(30) ("Definitions").

Based upon the information submitted by the Port as summarized in the Department's letter of July 2, 2001, the Port has demonstrated that the dewatered material currently at the Dredge Material Rehandle Facility location is equivalent to "soil, rock, concrete or other similar non-decomposable material." Consequently, the Port's proposed activity does not trigger permitting under OAR 340-093-0050(1).

In addition, the Department would not regulate the de-watered material as solid waste, based on the information supplied. Even assuming that the material can be classified as a "waste," the level of contaminants in the material reflects that it is substantially the same as "clean fill" or "inert" material, as defined in OAR 340-093-0030(13) and (46), respectively. The submission by the Port reflects that placement of the de-watered material as fill in the upland portion of Berth 602, Terminal 6 would not adversely impact waters of the state or public health.